

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail
Priority Mail Contract 195

Docket No. MC2016-92

Competitive Product Prices
Priority Contract 195 (MC2016-92)
Negotiated Service Agreement

Docket No. CP2016-117

PUBLIC REPRESENTATIVE COMMENTS ON
REQUEST OF THE UNITED STATES POSTAL SERVICE TO ADD
PRIORITY MAIL CONTRACT 195 TO THE COMPETITIVE PRODUCT LIST

(March 11, 2016)

I. Introduction

The Public Representative hereby provides comments pursuant to Order No. 3132.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's request to add Priority Mail Contract 195 to the competitive products list.²

Under 39 U.S.C. § 3642(b) the criteria governing Commission review are whether the product (1) qualifies as market dominant, (2) is covered by the postal monopoly and therefore precluded from classification as a competitive product, and (3) reflects certain market considerations, including private sector competition, the impact on small businesses, and the views of product users.

¹ PRC Order No. 3132. Notice and Order Concerning the Addition of Priority Mail Contract 195 to the Competitive Product List, March 7, 2016 (Notice).

² Request of the United States Postal Service to Add Priority Mail Contract 195 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, March 4, 2016 (Request).

Pursuant to 39 U.S.C. § 3633(a), the criteria for the Commission's review are that the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service.

The effective date of Priority Mail Contract 195 is two business days following the day on which the Commission issues all necessary regulatory approval. Request, Attachment B at 2. The contract is scheduled to expire 3 years from the effective date, subject to early termination provisions. *Id* at 3.

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II. Comments

Pursuant to 39 U.S.C. § 3642, the Postal Service requests that Priority Mail Contract 195 be added to the competitive product list. 39 U.S.C. § 3642 requires the Commission to consider whether “the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.” 39 U.S.C. § 3642(b)(1). Products over which the Postal Service exercises such power are categorized as market dominant while all others are categorized as competitive. The Postal Service's Statement of Supporting Justification makes a number of assertions that address the considerations of section 3642(b)(1). Request, Attachment D at 2. These assertions appear reasonable and the Public Representative concludes that the Postal Service's Request to add Priority Mail Contract 195 to the competitive product list is appropriate.

Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all

competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service. Based upon a review of the contract specific financial data, the negotiated prices for Priority Mail Contract 195 should generate sufficient revenues to cover costs during the first year of the contract and therefore meet the requirements of 39 U.S.C. § 3633(a).

The effective date of Priority Mail Contract 195 is two business days following the day on which the Commission issues all necessary regulatory approval. Request, Attachment B at 2. The contract is scheduled to expire 3 years from the effective date, subject to early termination provisions. *Id* at 3. Priority Mail Contract 195 includes a mechanism for the upward annual price adjustments for subsequent years of the contract, which will likely lead to the contract meeting the requirements of 39 U.S.C. § 3633(a) in future years. In addition, the Postal Service must provide revenue and cost data for Priority Mail Contract 195 in future Annual Compliance Reports. Based on this data the Commission can ensure that Priority Mail Contract 195 remains in compliance with 39 U.S.C. § 3633(a).

III. Conclusion

The Public Representative has reviewed the Postal Service's Request, Statement of Supporting Justification, attached contract, Certification of Compliance with 39 U.S.C. 3633(a), and the Postal Service's proposed revised changes to the Mail Classification Schedule (MCS). The Public Representative has also reviewed the supporting financial models for the contract filed separately under seal. Based upon that review, the Public Representative concludes that the Priority Mail Contract 195 satisfies the criteria of section 3642(b), concerning the classification of new competitive products, and complies with the requirements of section 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

Natalie R. Ward
Public Representative

901 New York Ave. NW
Washington, DC 20268-0001
202-789-6854
Natalie.Ward@prc.gov